IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4172 OF 2007

Shri Mahadev Prabhulal Thakkar .. Petitioner.

V/s.

The State of Maharashtra & Ors. .. Respondents.

Ms.S.P.Shinde for the Petitioner.

Mr.C.R.Sonawane, AGP for the Respondent Nos.1 to 3.

Mr.M.V.Aiya for the Respondent No.4.

CORAM : F.I. REBELLO AND
R.M. SAVANT, JJ.

DATED : 21st JUNE, 2007.

P.C. :-

. Rule. Heard forthwith.

2. Pursuant to the Applications invited, the Respondent No. 4 made an application for allotment of authorised ration shop. The authorised officer after considering the various applications received, by his order dated 25th April, 2006 found that none of them were eligible and directed that the matter be readvertised.

3. It appears that the respondent No.4 had filed a

revision application before the Revisional Authority, who by an order dated 27th of July, 2006, allowed the revision application by holding that the authorised ration shop was not allotted to the respondent No.4 as the premises were not in his lawful possession but at the time of hearing of the Appeal, the respondent No.4 has produced the copy of agreement executed by the owner of the shop. That agreement has been filed on record and is dated 18th of May, 2006.

4. The question is whether acquiring the premises after the applications were rejected on the ground that the respondent No.4 acquired new premises, would make the respondent eligible for the ration shop. The test of eligibility would be on the date of the application and not the date when the appeal is heard and decided.

5. Admittedly, the respondent No.4 did not have any premises in his possession on the date when the matter was decided by the authorised officer. The subsequent acquisition of premises and production of document before the revisional authority, therefore, would be of no consequence. The revisional authority if it thought fit to give an opportunity to the petitioner ought to have given opportunity to all the other applicants. In our opinion, the impugned order suffers from an error of

law apparent on the face of the record.

6. In the light of that, the impugned order dated 25.04.2006 and the consequential order dated 27.7.2006 are set aside. The Respondent No.3 in the meantime, in order not to cause difficulty for the consumers, to allot the units to the other authorised shops, till final order of allotment is made. The directions of the Respondent No.3 to readvertise the matter are to be complied with.

7. Rule is made absolute accordingly with no order as to costs.

(F.I.REBELLO,J.)

(R.M.SAVANT,J.)

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